



Office of State Revenue
NSW TREASURY

ABN: 77 456 270 638

Revenue Ruling No. LT1

Additional Tax Payable under Sections 40 and 72 of the Land Tax Management Act, 1956

PREAMBLE

1. The following guidelines relate to the exercise of the Chief Commissioner's discretion to rem it or reduce certain additional tax imposed by the Act. These guidelines replace all former guidelines and are to be applied from January 1986.

RULING

Failure to lodge a return

2. Where any taxpayer or person fails or neglects to furnish any return as and when required by the Act, the Chief Commissioner may, in accordance with sec. 15, make an assessment of the amount which, in his judgement, is the taxable value of the land owned and of the land tax payable thereon.

Additional tax at the rate of 20% per annum upon the amount of land tax assessable is imposed and payable under sec. 72(1) calculated from the date the return was due for lodgement up to the date the default assessment is made.

Late lodgement of returns

RETURNS ARE DUE FOR LODGEMENT BY THE FIRST WORKING DAY IN FEBRUARY EACH YEAR OR WITHIN SUCH EXTENDED TIME AS THE CHIEF COMMISSIONER MAY ALLOW.

3. Where a taxpayer lodges a return late, but before the issue of an assessment in accordance with sec. 15 (see paragraph 2) the full amount of additional tax is imposed and payable in accordance with sec. 72(1) at the rate of 20% per annum upon the amount of land tax assessable, calculated from the last date allowed for lodgement of the return to the date upon which the return is furnished.

Omission of land from a return

4. Where a taxpayer fails to include in a return any land owned, additional tax is payable, in accordance with sec. 72(1)(b), at the rate of double the amount of the difference between the land tax properly payable and the land tax which would be payable based upon the return lodged.

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Late payment of tax

5. Sec. 40 of the Act imposes additional tax by way of penalty in respect of land tax assessed and unpaid after the expiration of the time allowed for payment in accordance with sec. 39 i.e. 30 days after service of notice of assessment.
6. The additional tax is:
 - (a) upon the expiration of that time - 10% of the amount then unpaid; and
 - (b) upon the expiration of each successive period of six months thereafter - a further 10% of the amount then unpaid.

Extension of time for payment or payment by instalments

7. The Chief Commissioner may in accordance with sec. 41 extend the time for payment or permit payment by such instalments and within such time as the Chief Commissioner considers the circumstances warrant.
8. Extension of time to pay is used as an alternative to legal recovery action when a taxpayer is clearly unable to pay the tax when it falls due but has the capacity to pay at some future time. Extension of time will not be granted merely because the taxpayer finds it is inexpedient or unprofitable to produce the liquid funds by the due date.
9. Applications for extension of time for payment or for payment by instalments should be made before the due date for payment and should contain:
 - (i) a concise statement of the reasons for the application and of the taxpayer's financial position;
 - (ii) a firm proposal for payment of the tax by -
 - * a nominated date; or
 - * instalments (usually monthly) to commence and be completed by specified dates; and
 - (iii) in the case of a proposal for payment by instalments, be accompanied by the first instalment.
10. If a request for extension or payment by instalments extends beyond four months, a detailed statement of assets and liabilities should be submitted together with details of income and expenditure and other financial circumstances in support of the application.
11. The additional tax imposed by the Act for late payment of land tax (see paragraphs 5 and 6) is payable whether or not an extension of time for payment or payment by instalments, is allowed by the Chief Commissioner under sec. 41.

12. If an application under sec. 41 is approved, the additional tax imposed by the Act will be reduced to 20% per annum on condition that the taxpayer complies with the agreed repayments schedule.

Reduction of additional tax

13. Additional tax is imposed to gain compliance with the provisions of the Act and it is expected that there will be very few cases warranting the reduction of the additional tax imposed.
14. It is acknowledged, however, that from time to time there will be cases where the particular circumstances warrant special consideration of the reduction of such additional tax. These cases should be seen as limited and exceptional, falling within the following circumstances:
 - (i) ignorance of the law - but only where the taxpayer could not be reasonably expected to have knowledge of the law;
 - (ii) where the taxpayer has made a genuine and excusable mistake in interpretation of the law;
 - (iii) other circumstances which were outside the taxpayer's control.
15. All requests by taxpayers for reduction of additional tax are to be in writing.

A. D. CLYNE,
Chief Commissioner of Land Tax.
February, 1986.